

DELETE THE FOLLOWING FROM THE ZONING BYLAW:

4.3.7 Temporary Moratorium on Medical Marijuana Treatment Centers

ADD THE FOLLOWING TO THE ZONING BYLAW:

3.1.1.3 add a new Overlay District as follows:

d. The MEDICAL MARIJUANA OVERLAY DISTRICT

3.2.6 Medical Marijuana Overlay District

The Medical Marijuana Overlay District (herein MMOD) is hereby established as an Overlay District including the entire Town of Egremont.

5.5 MEDICAL MARIJUANA OVERLAY DISTRICT

5.5.1 Establishment

The Medical Marijuana Overlay District (herein MMOD) is hereby established as an Overlay District including the entire Town of Egremont.

Within the MMOD, all requirements of the underlying district(s) remain in effect, except where these regulations provide an alternative to such requirements. Land within the MMOD may be used either for (1) a Registered Marijuana Dispensary (ōRMDö), in which case the requirements set forth in this section shall apply; or (2) a use allowed in the underlying district, in which case the requirements of the underlying district shall apply. If provisions of the MMOD conflict with the requirements of the underlying district, the requirements of the MMOD shall control.

5.5.2 Purpose

5.5.2.1 The purpose of this section is to provide for the placement of a Registered Marijuana Dispensary in accordance with the Humanitarian Medical Use of Marijuana Act, G.L. c. 94C, App. §1-1, et seq., and with 105 CMR 725.000 et seq. in locations suitable for RMDs and to provide patients with safe access to medical marijuana products, while minimizing adverse impact of RMDs on adjacent properties, residences, schools, playgrounds and other locations where minors congregate by regulating the siting, design, placement, security, and removal of RMDs.

This section establishes suitable locations for RMDs by establishing specific standards regulating their siting, design, placement, security, and removal.

5.5.3 Applicability

5.5.3.1 No Registered Marijuana Dispensary shall be established in the Town of Egremont except in compliance with the provisions of this §5.5.

5.5.3.2 Nothing in this §5.5 shall be construed to supersede federal and state laws governing the sale and distribution of marijuana or marijuana products.

5.5.4 Definitions

- 5.5.4.1** Where not expressly defined in the Zoning Bylaws, terms used in the MMOD Bylaw shall be interpreted as defined in the Humanitarian Medical Use of Marijuana Act, G.L. c94C, App. §1-1, et seq. and the Department of Public Health Regulations promulgated thereunder, 105 CMR 725.000, et seq., and otherwise by their plain language.
- 5.5.4.2** Registered Marijuana Dispensary (RMD) means a not-for-profit entity registered under 105 CMR 725.100, that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana-infused products (edible marijuana-infused products), tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers.
- a. Registered Marijuana Dispensary Center (RMDC): An RMD that acquires, possesses, sells, dispenses, delivers or administers marijuana, products containing marijuana, related supplies or educational materials to registered patients or their personal care givers. RMDC refers to a site which dispenses marijuana to eligible, certified individuals but which does not cultivate or process marijuana.

5.5.5 Location

- 5.5.5.1** An RMD may be permitted in Egremont only within the MMOD and pursuant to a Special Permit.

5.5.5.2

- a. An RMD may not be located within 1,000 feet of, and an RMDC may not be located within 500 feet of, the following:
- i. School, including a public or private preschool, elementary, vocational, or secondary school or a public or private college, junior college, or university;
 - ii. Licensed child care facility;
 - iii. Library;
 - iv. Playground, public athletic field or similar public recreational facility;
 - v. Public park;
 - vi. Youth center;
 - vii. Public swimming pool;
 - viii. House of worship;
 - ix. Facility in which minors commonly congregate;
 - x. Drug or alcohol rehabilitation facility;
 - xi. Correctional facility, half-way house, or similar facility;
 - xii. Any other RMD
- b. An RMD may not be located
- i. Within 500 feet of any residence or other non-commercial use;
 - ii. Inside a building containing residential units, including transient housing such as motels and dormitories;

- iii. Inside a movable or mobile structure such as a van or truck.

5.5.5.3 The distance under this section is measured in a straight line from the nearest point of the property line of the protected uses identified in §5.5.5.2 to the nearest point of the proposed RMD structure(s), including containment or security fences.

5.5.6 General Requirements

5.5.6.1 No use shall be allowed in the MMOD which creates a nuisance to abutters or to the surrounding area, or which creates any hazard, including but not limited to fire, explosion, fumes, gas, smoke, odor, obnoxious dust, vapor, offensive noise or vibration, flashes, glare, objectionable effluent, or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.

5.5.6.2 No RMD shall have a gross floor area in excess of 2,500 square feet. An RMD may be located in a building that exceeds 2,500 square feet of floor area, provided that the gross floor area of the RMD shall not exceed 2,500 square feet.

- a. No RMDC shall have a gross floor area in excess of 1,000 square feet. An RMDC may be located in a building that exceeds 1,000 square feet of floor area, provided that the gross floor area of the RMDC shall not exceed 1,000 square feet.

5.5.6.3 The hours of operation shall be specified in the Special Permit, but in no event shall said hours be between 9:00 PM and 8:00 AM.

5.5.6.4 Signage shall be limited to one wall sign not to exceed ten square feet in area, and one identifying sign not to exceed two square feet in area; such signs shall not be directly illuminated.

5.5.6.5 The RMD shall provide the Special Permit Granting Authority and Egremont Police Department the name, phone number and email address of an on-site community relations staff person to whom one can provide notice if there are operating problems.

5.5.7 Procedure

5.5.7.1 The Planning Board shall be the Special Permit Granting Authority (SPGA) for a RMD special permit.

5.5.7.2 Any application for the Special Permit shall include the following:

- a. A copy of its registration as an RMD from the Massachusetts Department of Public Health (DPH); a copy of all licenses and permits issued by the Commonwealth of Massachusetts and any of its agencies; evidence of the applicant's right to use the site, such as deed, lease, purchase and sale agreement or other legally binding document.
- b. A detailed floor plan of the proposed premises that identifies the square footage available and describes the functional areas, including areas for preparation of all products, including MIPs;
- c. Detailed site plans that show the following information:
 - i. Compliance with the requirements for lot size, frontage, yards and heights and footprints of buildings, distance in linear feet from the

nearest point of the proposed RMD structure to the nearest point of the property line of the protected uses identified in §5.5.5.2 a and b and all other provisions of this Bylaw;

- ii. Convenience and safety of vehicular and pedestrian movement on the site and the location of driveway openings in relation to street traffic;
 - iii. Convenience and safety of vehicular and pedestrian movement off the site, if vehicular and pedestrian traffic off-site can reasonably be expected to be substantially affected by on-site changes;
 - iv. Adequacy of the arrangement and the number of parking and loading spaces in relation to the proposed use, including designated parking for home delivery vehicle(s) as applicable;
 - v. Design and appearance of proposed buildings, structures, freestanding signs, screening and landscaping; and
 - vi. Adequacy of water supply, surface and subsurface drainage and light.
- d. A description of the security measures, including employee security policies approved by DPH for the RMD;
 - e. A copy of the emergency procedures approved by DPH for the RMD;
 - f. A copy of the policies and procedures for patient and personal caregiver home-delivery approved by DPH for the RMD;
 - g. A copy of the policies and procedures for the transfer, acquisition, or sale of marijuana between RMDs approved by DPH;
 - h. A copy of proposed waste disposal procedures; and
 - i. A description of any waivers from DPH regulations issued for the RMD.
 - j. Sufficient copies of the above application to meet the requirements of §5.5.7.3 and §5.5.7.4, as determined by the SPGA.

5.5.7.3 Evaluation by Independent Consultants

- a. Upon submission of a complete application for any special permit under §5.5, if deemed necessary by the SPGA, the SPGA may choose an independent consultant, and the applicant shall provide its independent consultant(s) with the full application for their analysis and review.
- b. Applicant(s) for any special permit under §5.5 shall grant permission for the town's independent consultant(s) to conduct any necessary site visit(s). Access to the site shall be granted and shall not unreasonably be delayed.
- c. The applicant(s) shall pay the reasonable expenses costs of the town's independent consultant(s).

5.5.7.4 Evaluation by Town Boards

The SPGA shall refer copies of the application to the Board of Selectmen, Building Department, Fire Department, Police Department, Board of Health, Conservation Commission, Board of Assessors, and the Road Superintendent. These boards/departments shall review the application and shall submit their

written recommendations. Failure to make recommendations within 35 days of referral of the application shall be deemed lack of opposition.

5.5.7.5 SPGA Action

After notice and public hearing and consideration of application materials, consultant reviews, public comments, and the recommendations of other town boards and departments, the SPGA may act upon such a permit.

5.5.8 Special Permit Conditions

5.5.8.1

The SPGA shall impose conditions reasonably appropriate to improve site design, traffic flow and public safety; protect water quality, air quality and environmental resources; preserve the character of the surrounding area; and otherwise serve the purpose of this section. The SPGA's actions shall be based upon the considerations and procedures of this Bylaw and the degree to which the proposed development addresses the purposes of the MMOD and appropriately addresses the site-specific attributes or site-specific concerns. In addition to any specific conditions applicable to the applicant's RMD, the SPGA shall include the following conditions in any special permit granted under this Bylaw:

- a. Hours of operation, including dispatch of home deliveries;
- b. The special permit holder shall file a copy of any Incident Report required under 105 CMR 725.110(F) with the Chief of Police, Building Inspector and the SPGA within 24 hours of creation of such report. Such reports may be redacted as necessary to comply with any applicable state or federal laws and regulations.
- c. The special permit holder shall file a copy of any summary cease and desist order, quarantine order, summary suspension order, order limiting sales, notice of a hearing, or final action issued by DPH or the Division of Administrative Law Appeals, as applicable, regarding the RMD with the Chief of Police, Building Inspector, and SPGA within 24 hours of receipt by the RMD.
- d. The special permit holder shall provide to the Building Inspector and Chief of Police the name, telephone number and electronic mail address of a contact person in the event that such person needs to be contacted after regular business hours to address an urgent issue. Such contact information shall be kept updated by the permit holder.
- e. The special permit shall expire within two years of its issuance. If the permit holder wishes to renew the special permit, an application to renew the special permit must be submitted at least 120 days prior to the expiration of the special permit.
- f. The special permit shall be limited to the current applicant and shall lapse if the permit holder ceases operating the RMD.
- g. The special permit shall lapse upon the expiration or termination of the applicant's registration by DPH.

- h. The special permit holder shall notify the Chief of Police, the Board of Health, the Building Inspector, and the SPGA in writing a) prior to the expiration or termination of the permit holder's registration with DPH, or b) at least 48 hours before cessation of operation, whichever is earlier.

5.5.8.2 Exemption

An RMD that demonstrates it is protected pursuant to the agricultural exemption under G.L. c.40A §3 shall adhere to the maximum requirements herein as allowed under said exemption.

5.5.9. Discontinuance of Use

5.5.9.1 An RMD shall be required to remove all product prior to surrendering its state-issued licenses or permits or within forty-eight (48) hours of ceasing operations, whichever is earlier. All security measures required by the Humanitarian Medical Use of Marijuana Act, G.L. c. 94C, App. §1-1, et seq., and with 105 CMR725.000 et seq., and by the special permit shall remain in effect until all product is removed.

5.5.9.2 The board shall require the applicant to post a bond prior to operating the RMD to cover costs for the removal of the RMD in the event the Town must remove the facility. The value of the bond shall be based upon the ability to completely remove all the items noted in 5.5.9.1 and properly clean the facility at prevailing wages. The value of the bond shall be developed based upon the applicant providing the SPGA with three (3) written bids to meet the noted requirements. An incentive factor of 1.5 shall be applied to all bonds to ensure compliance and adequate funds for the town to remove the facility at the prevailing wages.

5.5.10 Violation

Any violation of these bylaws or the Humanitarian Medical Use of Marijuana Act, G.L. c. 94C, App. §1-1, et seq., and with 105 CMR725.000 et seq. shall be grounds for revocation or non-renewal of a special permit issued under this section.

5.5.11 Severability

The provisions of this Bylaw are severable. If any provision, paragraph, sentence, or clause of this Bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Bylaw.